

The Congress of Local and Regional Authorities



21st SESSION
CG(21)3
27 September 2011

Citizen participation at local and regional level in Europe

Governance Committee

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Summary

Recent events in Europe and neighbouring countries have shown that the role of citizens and civil society is changing and that people need effective ways to express themselves and to participate in the democratic process. Equally, elected politicians, at all levels, must allow citizens to influence the political process in between elections.

The Congress is convinced that by increasing public participation in decision-making processes and allowing citizens to express their own choices, preferences and opinions, and to be directly involved in local and regional governance, transparency can be improved and public confidence in the democratic process increased.

This report aims to assess direct democracy procedures at the local and regional level in Europe and current trends in citizen participation in the democratic process. The Congress will continue to promote citizen participation as an essential element of the good democratic functioning of society and continue to follow closely developments in this field in Europe.

¹ L: Chamber of Local Authorities/ R: Chamber of Regions

ILDG: Independent and Liberal Democrat Group of the Congress

EPP/CD: Group of the European People's Party – Christian Democrats of the Congress

SOC: Socialist Group of the Congress

NR: Member not belonging to a political group of the Congress



DRAFT RESOLUTION²

[\[see Resolution 326 \(2011\) adopted on 18 October 2011\]](#)

1. Recent demonstrations and events in Europe and on its borders indicate a growing need for citizens to be listened to by their elected politicians and to be able to influence politics at all levels also between elections. The Congress is convinced that increased public participation and direct involvement in local and regional governance can give citizens a sense of empowerment and more confidence in the democratic process.

2. For good governance at the local and regional level it is essential that citizens are able to have direct contact with elected officials and have some influence on the exercise of the authorities' powers and responsibilities. This is the level where their immediate concerns are taken into account. Working directly with people at neighbourhood level is central to how locally and regionally elected representatives should operate.

3. Representative democracy is the key mechanism whereby citizens can directly influence decision-making processes through universal suffrage. Participatory democracy is complementary to this process, serving as a tool to enable local and regional representatives to effectively carry out the role to which they are elected.

4. Providing clear, comprehensive and accessible information on local and regional politics strengthens active citizenship and fosters a feeling of belonging to a community as well as encouraging the civic duty to contribute to this community in a democratic society.

5. Recent developments concerning 'open data' (online publication of raw government information) in some countries show how new information and communication technologies, combined with a policy of transparency can have a direct impact on participation and services at the local and regional level, applications such as 'openly local' and 'spotlight on spend' filter the data and allow the emergence of smart communities.

6. It is essential that local and regional authorities have active and effective communication policies to keep their communities informed of their opportunities to participate in local life. In particular, they should ensure that those groups of citizens which have the most difficulty in being involved in public life at local level are informed appropriately whilst ensuring that participation is balanced and representative of their communities' composition.

7. For citizen participation to be effective, a strong civil society needs to exist. Local and regional authorities have a primordial role in the development of citizen networks and associations, to enable local people to come together as groups capable of advocating for specific needs in their community. Such groups and organisations should be consulted in a structured and balanced way to ensure that there is no undue influence on local authority decision-making.

² Preliminary draft resolution and preliminary draft recommendation approved by the Governance Committee on 26 September 2011.

Members of the Committee :

K.-H. Lambertz (Chair), *B.-M. Lövgren* (1st Vice-Chair), *E. Özkarşli* (2nd Vice-Chair), *V. Rogov* (3rd Vice-Chair), *A. Alite*, *R. Aliyev*, *M. Aygun*, *D. Barisic*, *N. Berlu* (alternate: *C. Tascon-Mennetrier*), *B. Biscoe*, *S. Borgwardt*, *W. Borsus*, *S. Bush*, *M. Chernishev* (alternate: *V. Novikov*), *L. Ciriani*, *M. Cohen*, *G. Dalleres Codina*, *B. Degani*, *C. Martins Do Vala Cesar*, *K. Dubin*, *A. Ü. Erzen*, *H. Feral*, *P. Filippou*, *A. Fusco Perrella*, *M. Gattei*, *G. Gerega*, *G. Berit Gjerde*, *V. Golenko*, *O. Goncharenko*, *A. Gravells*, *M. Haak-Griffioen*, *M. Hegarty*, *I. Henttonen*, *K. Hilber*, *L. Iliescu*, *V. Kadokhov*, *P. Karleskind*, *I. Khalilov*, *O. Kidik* (alternate: *S. Tunali*), *V. Kress*, *A. Langner*, *S. Lazic*, *E. Lindal*, *O. Luk'ianchenko*, *C. Mayar*, *M. Mahmutovic*, *J. Manninger*, *C. Marini*, *C. Mauch*, *J. McCabe*, *A. Mediratta*, *J. Mend*, *B. Mennel*, *M.-M. Mialot-Müller*, *A. Mimenov*, *E. Mohr*, *S. Neeson*, *G. Neff*, *A. Nemcikova*, *V. Nersisyan* (alternate: *E. Yeritzyan*), *C. Nicolescu*, *R. Nwelati*, *F. Pellegrini*, *J. Pulido Valente*, *G. Roger*, *S. Röhl*, *B. Rope*, *R. Ropero Mancera*, *M. Sabban*, *I. Sanchez Amor*, *C.-L. Schroeter*, *P. Sedlacek*, *A. Sokolov* (alternate), *A. Stark*, *N. Stepanovs*, *A. Stoilov*, *D. Suica*, *R. Tirle*, *S. Tobreluts*, *S. Ugrekheldize*, *P. Van der Velden*, *E. Verrengia*, *P. Wies*, *M. Yurevich*

N.B.: The names of members who took part in the vote are in italics.

Secretariat of the Committee : T. Lisney and N. Howson.

8. Local and regional authorities are experimenting with new and different ways to engage their citizens in contributing to the governance of their communities. There is not a 'one size fits all' approach: cultural as well as locally specific factors can influence the effectiveness of participation initiatives.

9. Good examples of citizen participation in Europe are very varied: referendums, public consultation meetings, citizen panels, foreign residents' councils, citizen initiatives, neighbourhood and youth councils. These initiatives should be developed where they do not exist.

10. Through actively seeking the participation of citizens, elected representatives can increase their knowledge base and use the electorate as a reservoir of expertise. Local and regional policy and decision making can be more informed, better adapted and smarter as a result. European citizens can be a source of innovation, specialised information, constructive feedback and motivation.

11. There are increasing examples of local and regional authorities making use of participatory budgeting, which, in a climate of severe cuts to local authority budgets, can provide a way to empower citizens by enabling them to make funding decisions that effect their everyday lives. With this tool, as with all direct democracy instruments, it is important to manage expectations with regard to the influence of participation on the final outcome.

12. In this regard, the Congress welcomes Recommendation (2009)² of the Committee of Ministers on the evaluation, auditing and monitoring of participation and participation policies at local and regional level and the CLEAR diagnostic tool³ which can be used by local and regional authorities to evaluate and improve citizen participation and to concentrate their efforts on involving citizens in local affairs.

13. The Congress:

a. asks its Governance Committee to consider following closely developments in citizen participation across Europe and to facilitate regular exchanges of innovative and successful practice amongst members through the organisation of specific meetings on this subject in the future if necessary;

b. expresses its willingness to engage in dialogue with the Committee of Ministers on the use and evaluation of citizen participation at the local and regional level in member States;

c. will continue its examination of citizen participation with civil society groups to listen to their expectations and exchange ideas on how to improve participation;

d. asks its Monitoring Committee to continue taking the rights of citizens to participate in the conduct of local public affairs into account during its assessment of member states' compliance with the European Charter of Local Self-Government.

14. The Congress calls on the local authority associations of Europe to aid their members to promote citizen participation in their communities, in particular using new information and communication technologies and to use their role as a multiplier of information to gather and share knowledge of best practices.

15. In view of the foregoing, the Congress calls on local and regional authorities of Council of Europe member States:

a. to make greater use of 'informal' and 'alternative' forms of participation, such as citizen panels, and other forms that have proved effective;

³ The CLEAR tool is appended to Committee of Ministers Recommendation CM/Rec(2009)2.

b. to harness the possibilities provided by new information and communication technologies for electronic governance to create smart communities;

c. in member states where civil society is weak, to encourage local people to mobilise in groups and associations to act on their own behalf and advocate for specific needs in their community through institutional arrangements;

d. to identify specific projects, such as the development of community centres and other community facilities, where direct participation by voluntary and residents' groups can be tested;

e. to strengthen, where possible, the reception and follow-up they give to such forms of participation, for example by undertaking to systematically vote on citizen initiative proposals;

f. to actively participate in the European Week of Local Democracy, held in October each year, as an effective way of increasing citizens' knowledge of local and regional democratic institutions and to strengthen the links between populations and their locally elected representatives;

g. to establish mechanisms to facilitate and evaluate citizen participation at local and regional levels;

h. to report regularly to the Congress on citizen participation initiatives in their countries.

DRAFT RECOMMENDATION⁴

[\[see Recommendation 307 \(2011\) adopted on 18 October 2011\]](#)

1. The Congress of Local and Regional Authorities reaffirms its commitment to public participation in local and regional affairs as a basic right at the heart of local democracy, giving people the ability to influence the decisions of the representative bodies that affect their lives and communities. To participate effectively people need to have both the capacity and the motivation to act. Local and regional authorities, for their part, need to have dynamic communication policies and ensure easy access to relevant information.

2. The Congress recalls Recommendation (2001)19 of the Committee of Ministers on the participation of citizens in local life and notes that, in the ten years since this recommendation was adopted, many member states have instituted and use an increasingly wide variety of tools and institutions to encourage citizen participation and strengthen local and regional democracy.

3. These tools vary from informal instruments such as citizen's panels to binding local and regional referendums. It is important that such instruments are not just empty frameworks but are actively used: however good an instrument is, poor implementation can damage trust in the democratic process rather than encourage it.

4. Citizen participation can be hampered by many factors. Citizen groups and popular initiatives can be disheartened by the complicated and rigid procedures in place. There can be a lack of information on the opportunities to participate in local public affairs or the information may only reach certain groups leading to participants who are not representative of all of the community. Through encouraging dialogue between all groups a more cohesive community can be attained.

⁴ See footnote 2.

5. The Congress believes that, in these times of increasing cuts to local and regional authority allocations and disenchantment with the political process, it is more important than ever that citizens actively participate at the level closest to them. The way forward is through innovation and active citizenship at grassroots level. Increased public participation and direct involvement in local governance will give citizens a sense of empowerment, and will help to restore confidence.

6. Local and regional authorities are experimenting with new and different ways to engage their citizens in contributing to the governance of their communities. There is not a 'one size fits all' approach; cultural as well as locally specific factors can influence the effectiveness of participation initiatives.

7. Providing clear, comprehensive and accessible information on local and regional policies strengthens active citizenship and fosters a feeling of belonging to a community as well as the civic duty to contribute to this community in a democratic society. Recent developments concerning the online publication of raw government information as 'open data' in some countries have shown how new information and communication technologies combined with a policy of transparency can have a direct impact on participation and services at the local and regional level.⁵

8. Through actively consulting citizens, elected representatives are increasing their knowledge base and ensuring that decisions and policies are more innovative, informed, cost-effective and balanced.

9. The Congress regrets that, despite the importance that the Council of Europe places on the active participation of citizens in local and regional life, the Additional Protocol to the European Charter of Local Self-government on the Right to Participate in the Affairs of a Local Authority (ETS No. 207) has not yet entered into force. The Council of Europe Convention on the Participation of Foreigners in Public Life at Local Level (ETS No. 144), opened for signature in 1997, has also received few ratifications.

10. The Congress welcomes Recommendation (2009)2 of the Committee of Ministers on the evaluation, auditing and monitoring of participation and participation policies at local and regional level and is ready to participate in any follow-up to this recommendation which aims to ascertain what works well in participatory democracy and to ensure that best practices are shared.

11. The Congress recommends that the Committee of Ministers invite member States:

a. to follow the example of certain member states and publish public data online, creating an 'open data' source for public government information, which is a valuable element to increasing dialogue with citizens at the local and regional level;

b. to make greater use of existing instruments in their countries which are available for direct democracy at local and regional level and, in those countries where regulation of local government is entrusted to a regional level of government, to encourage the regional authorities to do likewise;

c. to introduce incentives to encourage local and regional authorities to use new information and communication technologies, including social networks, to increase citizen participation, and improve transparency and services to the public;

d. in those countries where it is not yet possible, to allow local and regional authorities to introduce participatory budgeting in order to increase confidence in the democratic process and strengthen social cohesion in local communities;

⁵ See <http://data.gov.uk/apps> (some examples www.fixmystreet.com, www.openlylocal.com and www.spotlightsonspend.org.uk)

e. to ensure that national and, where applicable, regional rules governing citizens' initiatives are straightforward and not a disincentive for those wishing to launch an initiative;

f. to sign and ratify the Additional Protocol to the European Charter of Local Self-government on the Right to Participate in the Affairs of a Local Authority (ETS No. 207);

g. to sign and ratify the Convention on the Participation of Foreigners in Public Life at Local Level (ETS No. 144) to ensure reasonable efforts are made to involve foreign residents in consultations on local matters;

h. to ensure that all forms of democratic participation at local level are open to all people, regardless of citizenship or nationality.

12. The Congress invites the Committee of Ministers:

a. to follow up its Recommendation (2009)² by asking member states to report on its implementation, and encourage those member States which are not yet using direct forms of citizen participation to begin doing so;

b. to support the Congress in its efforts to continue taking the right of citizens to participate in the conduct of local public affairs into account during its visits to assess the application of the European Charter of Local Self-Government in member States;

c. to continue its dialogue with the Congress on improving democratic participation at the local and regional level.

EXPLANATORY MEMORANDUM⁶

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I. Introduction

1. The participation of citizens in public life is a central component of the idea of democracy. Effective democracy is inconceivable without the involvement of the people who are the major stakeholders in public policy decisions. In modern constitutional democracies it is a natural requirement that citizens' voices must be heard, as their interests and opinions have to be taken into account in the decision-making process of representative institutions.

2. The forms of participatory democracy are no less important at local and regional level than in national politics. One of the fundamental principles of local democracy is that citizens have the right to influence the decisions of the representative bodies that affect their lives and their communities. To meet this democratic requirement, it is necessary to establish and operate certain institutions and procedures which can ensure opportunities for local residents to express their wishes and views, not

⁶-The Congress would like to thank Zoltán SZENTE (Hungary) of the Group of Independent Experts for his work on this explanatory memorandum.

only as voters in local and regional elections, but also as citizens and full members of their local communities.

3. The Council of Europe has affirmed that participation is a basic element of democratic society in member states. The Committee of Ministers, in its Recommendation (2009)² on the evaluation, auditing and monitoring of participation and participation policies at local and regional level, recommends that governments cooperate with local and regional authorities and other stakeholders to undertake, or step up, work to evaluate democratic participation and its impact at local and regional level.⁷

4. At its 16th Session, the Council of Europe Conference of Ministers responsible for Local and Regional Government, meeting in Utrecht in 2009, adopted the Utrecht Declaration, which also confirms the need to increase the direct involvement of citizens in public affairs.

5. The European Charter of Local Self-Government contains some references to the importance of direct citizen participation. Its Preamble states that the text of the Charter itself is based on “the right of citizens to participate in the conduct of public affairs”, which “is one of the democratic principles that are shared by all member States of the Council of Europe”. Article 3, Section (2) of the Charter refers to assemblies of citizens, referendums or any other form of direct citizen participation, stating that the Charter’s concept of local government shall in no way affect recourse to these procedures. Another principle, in Article 5, states that “changes in local authority boundaries shall not be made without prior consultation of the local communities concerned, possibly by means of a referendum where this is permitted by statute”. Nevertheless, the Charter does not include any more specific principles or rules on the forms and requirements of direct citizen participation at local or regional level, although they are used in one way or another in every member state.

6. The Additional Protocol to the European Charter on the right to participate in the affairs of a local authority supplemented the original text by recognising everyone’s “right to seek to determine or to influence the exercise of a local authority’s powers and responsibilities”. There are also instruments to encourage the participation of groups who are often not involved in local affairs, namely young people and foreigners.⁸

7. More recently, efforts have been made to establish the commonly shared values, principles and institutions of local and regional citizen participation in Council of Europe member states. On the initiative of the Province of Utrecht, the Professor G. H. Addink from the University of Utrecht undertook comparative research on the application of the participation principle at local and regional level within the framework of the Council of Europe.⁹

8. As a next step towards improving the means and instruments of local and regional participatory democracy following consideration of the Addink Report, the Institutional Committee of the Congress of Local and Regional Authorities of the Council of Europe, at its meeting in Utrecht in March 2010, asked the Group of Independent Experts to undertake a comparative study of local and regional participation in the different states of Europe.

9. Accordingly the Group engaged in comprehensive research, using its own network of national experts, to collect the relevant data on member states’ existing legislation and practices. A questionnaire was drawn up for this purpose, which the Institutional Committee approved at its meeting in St. Gallen in May 2010. The questionnaire was then sent to the members of the Group. This draft report is based on 34 national replies received.¹⁰

⁷ Also, the Committee of Ministers adopted Recommendation (2007)⁷ on good administration, in which it identified participation as one of the fundamental principles of good administration, and stated that “unless action needs to be taken urgently, public authorities shall provide private persons with the opportunity through appropriate means to participate in the preparation and implementation of administrative decisions which affect their rights or interests”.

⁸ Revised European Charter on the Participation of Young People in Local and Regional Life (appendix to Recommendation(2003)¹²⁸ and the Convention on the Participation of Foreigners in Public Life at Local Level (ETS No. 144).

⁹ The findings of this study appeared in a report by Professor G. H. Addink (November 2009) http://ec.europa.eu/dgs/secretariat_general/citizens_initiative/docs/provincie_utrecht_1_en.pdf

¹⁰ Armenia, Austria, Azerbaijan, Bulgaria, Croatia, Cyprus, Estonia, Finland, France, Germany, Greece, Hungary, Iceland, Ireland, Italy, Latvia, Liechtenstein, Lithuania, Luxembourg, Malta, the Netherlands, Norway, Portugal, Romania, Russia, Serbia, Slovakia, Slovenia, Spain, Sweden, “the former Yugoslav Republic of Macedonia”, Turkey, the United Kingdom and Ukraine.

10. On this basis, this comparative study is intended to provide an overall assessment of the use of direct citizen participation at local and regional level throughout Europe.

11. We had to face up to a problem that is all too common in comparative studies of European states, which is the great diversity of national approaches. There are numerous differences in the legislation governing institutions and procedures for direct citizen participation in local public affairs. The various member states do not apply the same forms of direct democracy. The intensity, frequency and scope of these institutions varies, as does their true importance in local politics.

12. Moreover, as in the case of other institutions, there are differences between the member states in how they use the relevant terminology. Some concepts are applied in different ways, while the same or very similar procedures and instruments frequently have different names.

13. Undoubtedly, it is a prerequisite of the success of such wide-ranging comparative research to use unambiguous and clear definitions. We therefore tried to eliminate the problems by offering national experts a uniform set of terminology so as to make national situations comparable.

14. For the purposes of our research, "citizen participation" is the core issue whose forms, use and characteristics we explore. In this report, citizen participation means direct involvement of local and/or regional citizens in the public decision-making process to enable them to express their own choices, preferences or opinions. This therefore includes all institutions and procedures through which people can influence public policy directly. Inevitably, this conceptualisation does not define the topic precisely. Citizens may participate in local public life in many ways, using formal procedures or expressing their views only informally, and they may have different motivations for doing so.

15. By and large, the report follows the structure of the questionnaire. In the first chapter we review the constitutional and legal bases of local and regional referendums, and also consider what forms of citizen participation are used in the various legal systems. The most important instruments are then discussed separately: referendums, popular initiatives, local assemblies, and public hearings. But this is obviously an open-ended list: other procedures are also used in member states, and those that are most widespread are described in chapter V. The next section tries to assess what practical role these forms of direct democracy play in member states' political life. To what extent do they actually enable local citizens to exercise a real influence on local public affairs? Finally, this report gives some information and forecasts about recent and foreseeable trends in citizen participation as a vital part of the democratic process.

16. It is worth emphasising that the questionnaire focuses on the institutionalised forms and procedures of direct citizen participation. Nevertheless, among the "alternative forms", in chapter VI, there are some questions about informal types of participatory democracy, including the role of local and regional parties as non-state actors of local (regional) politics.

17. Significantly, the questionnaire did not cover local and regional elections, even though they have an essential role in local democracy, because that would greatly have extended the scope of our research. Nor does it include questions about certain citizens' rights, like the right of access to public documents or to petition, because, although these relate to citizen participation, it is not their primary function to have a direct influence on public affairs, though they can be prerequisites of direct participation by local residents.

18. The primary aim of the questionnaire was to survey citizen participation at local and regional level in Europe, examining the current situation in member states and its legal regulation, forms and major characteristics. Our aim is also to contribute to a comparison of member states' practices and the identification of good practices and solutions, and to encourage and strengthen participatory democracy at local and regional level.

II. Constitutional and legal bases

19. Whenever we undertake a comparative study of European states relating to a particular issue of local government, we find extremely different regulatory models, national patterns and local customs. This is again the case with citizen participation in member states. In some cases there are various regulations and situations even within one country, so the basic units for wider comparison cannot be the whole country, but rather its component states, regions or other subdivisions. This applies not only

to federal states like Austria or Germany, whose 9 and 16 *Länder* respectively have various regulatory systems, but also to the United Kingdom, where five very different systems of law and administration exist.

20. Nevertheless, despite the great variety of institutional settings and differences of tradition, experience shows that member states share a lot of common ground on the issue of people's empowerment to express their views on local public affairs, in keeping with the democratic values shared by the Council of Europe's member states.

21. If we look at the constitutional bases for citizen participation in local public affairs in member states, we need to recognise certain fundamental variations in public law traditions and institutional settings, and these help us to understand a lot of national differences. For example, the differences between the Anglo-Saxon public law approach and the continental constitutional traditions have certain effects in the field of our subject. In the United Kingdom and Ireland, for instance, the arrangements for taking account of citizens' opinions and preferences are largely informal, rather than existing through general institutions regulated by legislation.

22. Attention should also be drawn to the general differences in the constitutional structures of federal and unitary states. In the former, there is no central or uniform regulation and practice effective in the whole country, because – in terms of broad principles – the component states have power to regulate the instruments and procedures of citizen participation. There might therefore be enormous differences even within one country.

23. In most cases, the national constitution recognises the right of people to express their views in public affairs.

24. Thus, according to the Finnish constitution of 1999, democracy entails “the right of the individual to participate in and influence the development of society and his or her living conditions”. The constitution also lays down an obligation for public authorities (including municipalities) “to promote opportunities for the individual to participate in societal activity and to influence the decisions that concern him or her”. In addition, the public authorities have a specific duty to “endeavour to guarantee for everyone the possibility to influence the decisions that concern their own living environment”. The Latvian constitution says that “every citizen of Latvia has the right, as provided by law, to participate in the work of the State and of local government”. Alongside free elections, the federal constitution of the Russian Federation considers referendums to be the highest direct expression of the people's power.

25. Some constitutions also specify the most important procedures of direct democracy, most frequently the referendum. But, even if the constitution specifies the basic forms of citizen participation, this is not a closed list; ordinary laws may establish other instruments, as in Portugal, where the constitution recognises referendums at regional and local level, popular assemblies in parishes with an electorate of less than 150, and the right to petition, but parliamentary laws have introduced other institutions as well.

26. We may therefore conclude that present-day European constitutional theory holds representative democracy to be compatible with the institutions of direct democracy, and this applies at local level as well. However, the instruments of the latter are generally not explicitly included in the constitution. In most countries, they are regulated by law or lesser legal rules.

27. This is the case in Armenia, Austria, Azerbaijan, Croatia, Finland, France, Hungary, Latvia, Luxembourg, Portugal, Romania, Russia, Serbia, “the former Yugoslav Republic of Macedonia” and Ukraine.¹¹ Nevertheless, in the United Kingdom and Ireland there is no general constitutional (or even legislative) framework for citizen participation.

28. Turning to the subject of the general characteristics of the law governing the institutions of direct citizen participation, a number of regulatory regimes can be identified.

29. In the first group of member states, there is a local government law (municipal code) which specifies the procedures and instruments of direct citizen participation at local (and possibly regional)

¹¹ It is not clear from the other national reports whether the principles of direct participation are recognised by the constitution, or not recognised at all.

level, as in Finland, Luxembourg and Slovenia. In some Austrian Länder, Azerbaijan, Croatia, Hungary, Romania, Russia, Sweden, “the former Yugoslav Republic of Macedonia” and Ukraine, there are special laws on referendums or other forms of direct democracy. In other countries with certain institutions of participatory democracy, their application is regulated by particular laws on specific subjects, such as statutory regulations on land use, urban planning or environmental protection.

30. In many cases the legislative framework only provides broad principles recognising the possibility or the basic forms of citizen participation, with regional and local authorities being granted quite general powers to lay down detailed rules.

31. Finally, we cannot underestimate the role of “soft law”, informal rules and local customs and practices in this area, in particular in those cases where the instruments of citizen participation do not produce decisions binding on the public authorities.

32. Whatever its legal basis, the referendum is the most widespread type of citizen participation in member states. While varying greatly in form and legal effect, referendums are known and used in almost all the studied member states. Only Ireland and the United Kingdom seem to be exceptions to this rule, because in these countries a local referendum is not the standard instrument for expressing the views of local citizens. Nevertheless, on certain specific issues, local residents or other interested groups can be involved in the decision-making process.

33. In Azerbaijan and the Baltic States, the relevant procedures are known as “local public opinion polls”, not referendums, but they have the same impact on the policy-making process.

34. In some countries the local referendum is the only legal or institutionalised form of direct citizen participation. This is the case in Armenia, where no other form of citizen participation is recognised or used in local issues. At the other end of the scale are those countries where the legal system and/or practice recognise several different instruments, as in Austria, Italy, Latvia and Portugal, where in addition to the referendum, many other procedures are also available. Apart from local referendums, popular initiatives, different kinds of public meetings of local residents and, particularly in smaller municipalities, people’s assemblies are relatively widespread procedures.

35. In a large number of countries, local citizens are consulted in various ways on specific issues prior to the final decision of the competent representative body. Although this process resembles, to some extent, the popular initiative, insofar as it is also used for requesting and surveying the preferences and opinions of local citizens before a final decision, in this case it is initiated not by citizens themselves, but by the competent authority. This kind of citizen participation was not specified in the questionnaire, but it is used in so many cases that it can be seen as a special form of direct democracy at local level.

36. It is worth noting that certain special institutions for involving citizens in the decision-making process are only used in one or two countries. One example is in Portugal during preparation of the annual local budget: voters are consulted to see which capital spending plans they consider the most important.

37. It was assumed that forms of citizen participation were used at both local and regional levels. Although this assumption has been justified, it should be added that direct democracy is usually more vigorous at local than at regional level. In the latter case, only referendums are organised, and much more rarely than in local government.

III. Local and regional referendums

A. Definition of local/regional referendums

38. For the specific purposes of this research, we defined referendum (plebiscite)¹² as a commonly known and used form of citizen participation offering a legal means for the electorate to vote for or against a proposal of public interest.

¹² In the absence of conflicting word usage in national replies, I have in this report used the terms “referendum” and “plebiscite” as synonyms.

39. All Council of Europe member states are representative democracies in which citizens delegate authority to elected representatives. This empowerment – through local, regional or general elections – enables the representative body to take decisions on public matters in the name of and for the people. Public authority is therefore primarily exercised by representatives elected by citizens, who have a universal and equal right to a secret vote. Nevertheless, in exceptional cases the community of voters may remove the relevant power from those representatives by expressing its desire to decide on a particular issue itself. The instruments of citizen participation make this possible in several different ways.

40. This is the dominant, but not the only, approach to the relationship between direct and indirect (or representative) democracy. Turkish public law, for example, provides for only a marginal role for the institution of the local referendum, since the only matter that can be put to a referendum is whether or not the residents of a settlement wish to acquire municipal status. In the Netherlands, representative and direct democracy are not interchangeable institutions: there is no constitutional means of calling a binding referendum, because the directly elected representatives have exclusive power to exercise public authority. In Lithuania, referendums may be held only at national level, so this instrument cannot be used to enable local citizens to decide local public affairs in a direct way.

41. Local and regional referendums are of several different types, according to permitted subjects, procedural rules and legal effects. The Congress adopted Resolution 235 (2007) on the Code of Good Practice on Referendums¹³ recalling that like any other electoral process referendums must be carried out in conformity with democratic principles and standards.

B. Possible subjects of local referendums and restricted areas

42. As for the subjects of referendums, the principle most widely accepted and applied is that local referendums may be held on all matters that fall within the sphere of responsibilities of the particular local (regional) government. In some cases possible subjects for local referendums are only laid down in vague terms, or not specified at all. In Luxembourg and “the former Yugoslav Republic of Macedonia”, for example, referendums may be held in the community interest, that is “in cases affecting municipal interests”, or on issues of local importance, while in Croatia citizens may decide on any subject within the scope of the municipality’s responsibility, as well as other issues determined by the law or statute.

43. In other member states, local referendums can be initiated on a narrower range of issues. In Slovenia, municipal bye-laws can be confirmed or rejected by local citizens. Referendums may be held on legislative matters, and another frequent function of this instrument of citizen participation is to provide an opportunity for local residents to express their will in respect of proposals for changes in local government status or boundaries.

44. Some local referendums may be initiated for specific aims. In Romania, for instance, citizens may use them to dissolve local or county councils or dismiss mayors (who are directly elected by the same citizens). Nonetheless, this kind of solution is very rare in Europe, although it also exists in Russia, since it is equivalent to a collective dismissal of local representatives, which does not appear to be compatible with their free mandate. In Russia, a federal framework law of 2003 on local governments stipulates that the issue of the structure of a newly established local authority or the reorganisation of an existing one shall be put to a vote at a referendum if there is a public initiative to hold one. In the absence of a popular initiative, the referendum is organised by the representative body.

45. In some countries there is only loose regulation, without any limitation on the subject matter of local referendums. This is the case in Finland, Norway and Serbia. There appears to be a connection between the absence of any restriction on local referendum subjects and the fact that referendums are purely consultative.

46. The scope of the subjects of local referendums can be defined not only in positive, but also in negative terms. The “prohibited areas” are those topics on which local referendums cannot be held. In most cases, local citizens may not vote directly on local financial issues: a municipality’s annual budget, local taxes and financial obligations cannot usually be put to a local referendum. These

¹³ Adopted by the Council for Democratic Elections and the Venice Commission.

limitations are applied almost everywhere. However, this does not preclude participatory budgeting which is emerging as an innovative and effective method of increasing citizen participation.

47. Also excluded from local referendums are issues within the exclusive competence of another public authority. Self-evidently, if a specific power is not held by a local council, related matters cannot be the subject of a local referendum. For example, “*Land* affairs” (matters over which the *Land* has power) cannot be submitted to local referendum in Austria, while in Armenia, where the Local Government Law contains a number of restrictions on local referendums, direct votes cannot be held on issues related to municipalities' delegated powers.

48. As regards specific restrictions on the holding of local referendums, prohibited topics include:

- issues which relate to the provisions of emergency laws or urgent activities concerning citizens' health and safety (Armenia, Austria, Russia);
- questions which are related to historical and cultural places and national parks (Armenia);
- alteration of the status of the regional/ local body (Russia);
- extension of the term of office of the representative body (Russia);
- personal issues, like suspension from office or the appointment or election of public officials (Russia, Ukraine).

C. Main procedural rules

Initiation of local referendums

49. There is also a great variety in the procedural rules relating to local referendums. A core issue is that of who has the right to initiate a referendum, that is, who can set the whole procedure in motion.

50. The procedural rules governing the initiation, announcement and organisation of local and regional referendums vary widely between Council of Europe member states, according to level (i.e. local or regional referendum) and legal nature (binding or non-binding, mandatory or optional referendum).

51. Where the launching of the whole process is concerned, both local citizens and the municipal council generally have the right to initiate a local referendum, with only a few exceptions. In France and Norway, only the representative body may initiate a local referendum. However, even in those cases the local population can presumably put pressure on the local council to call a local referendum.

52. Since local referendums are the main form of citizen participation, the way in which local residents can initiate a local plebiscite is crucial. There are two conflicting considerations. The first is that the rules setting the conditions for successful initiation cannot be too rigid. Otherwise, the local referendum could become a “dead letter” of local direct democracy. However, if these rules set requirements which can be easily met, the number of local referendums could rise sharply, and thus deprive them of their exclusive or extraordinary nature. This might have a negative impact on the well-established decision-making mechanisms of the relevant local and regional authorities. If local citizens are called on too often to make decisions in cases that otherwise come within the responsibility of the local or regional council, both the council and the institution of the referendum might become devalued.

53. Basically, we can identify two kinds of preconditions for calling a local referendum. Firstly, there are, let us say, “technical” conditions which relate to preparing for initiation and acquiring the necessary support. In Armenia, for example, at least 5 local voters may form an initiative group and apply to the Territorial Electoral Commission for registration. The group has to submit to the Commission the draft decision, data on the members of the group and notice of the group's meeting to initiate a local referendum. After registration the group may start to collect supporting signatures (supporting signatures must also be collected by initiative groups in Russia). The relevant procedural rules set deadlines for collecting the necessary support for the local referendum and include other technical aspects, such as how personal data should be handled, and so on.

54. Secondly, the most important rules may be those which determine who can propose a local referendum, including the number of local citizens required to support initiation. This is normally defined as a proportion of the local voters, but sometimes the minimum requirement is set numerically. In some countries, this figure is fairly low. The lowest is in Estonia, where a mere 1% of local voters

(but no fewer than 5 people) may propose a local public poll. 5% is the required percentage of local voters in Armenia, Finland, Slovenia, and Sweden, and 10% in Azerbaijan and Ukraine.

55. Slightly more sophisticated regulation exists in Luxembourg and Portugal, where a local referendum can be requested by different numbers or proportions of the local voters, depending on the population of the municipality concerned. Thus, in Luxembourg a local referendum must be held whenever it is called for by at least one-fifth of the local electorate in municipalities with more than 3,000 residents, and at least a quarter in other municipalities.

56. Other countries impose stricter conditions. In Croatia and “the former Yugoslav Republic of Macedonia”, 20% of local voters can request local referendums. In Romania, at least 25% of the total population with the right to vote is needed to initiate a referendum to dismiss a local council, 20% to dismiss a county council and 25% to dismiss a mayor.

57. Special combined regulations apply in Hungary and Serbia, where national legislation provides only a general framework for or limit on the necessary percentage for initiating local referendums, with the actual number or percentage of supporting signatures required being determined by each individual local authority. According to Hungarian legislation, local authorities can set this percentage themselves, but it may not be less than 10% or more than 25% of local voters, while in Serbia the relevant law stipulates only a minimum percentage (10%), and local statutes can then lay down the exact percentage.

58. It should be noted that even when the necessary support for calling a local referendum is forthcoming, in some places the local council is not bound to call the referendum. In other words, while local citizens can request the representative body to consult the local electorate on a particular question, they cannot oblige it to do so.

59. In many, though not all, countries, a municipal council’s decision to call a local referendum may involve other groups and individuals in addition to local voters. It is a fairly general rule that a proportion of council members can submit such a proposal, but in many countries the mayor also has this right. There are some examples of other parties having the right to make such a proposal, for example local government committees or the managing bodies of local civil organisations in Hungary, or the Governor in Turkey.

Questioning of local/regional citizens

60. When the representative body wants to know what the local population thinks about a particular issue, the question has to be asked in a way that ensures that the will of the majority is clearly expressed. It is a basic principle of local referendums that their questions should be formulated in a way that is most likely to lead to well-defined answers. As the relevant provision says in Greece, the referendum question should be “short and clear”. There are often no legal guidelines about the formulation or content of referendum questions, although there are some exceptions, such as Portugal, where the relevant regulation prescribes that questions should be worded in a neutral way and should not be preceded by preambles or explanatory notes of any kind.

61. In those cases when no such rules exist, it can be assumed that practice itself guides the whole process. For example, a broad statement of intent or a general policy declaration is presumably more usual for a consultative referendum, whereas binding referendums are held to decide on more specific questions. When the wording of a question is clear and easily understandable, the two-variant question is seen as the best solution, offering voters yes/no, for/against or accept/reject options. This method is followed by Armenia, some Austrian *Länder*, France, Hungary, Romania, Slovenia, Turkey and Ukraine. Most experts reported that the relevant laws neither specifically allow nor prohibit multiple-choice questions.

Mandatory as compared to non-mandatory referendums

62. Mandatory referendum is the term used when the competent public authority is obliged to call a referendum because of statutory regulations. The alternative is an optional (or non-mandatory) referendum, when a question may be put to a popular vote at the discretionary power of the relevant representative body, so that the local council retains its right to decide whether or not to call a referendum. This character of a referendum should not be confused with its binding or consultative

nature; it might be the case that, although a local referendum is required to be held, for instance on a merger of one local authority with another, the local assembly is not bound by its results.¹⁴

63. In this respect, the member states studied here can be classified essentially in two different groups. To the first group belong those countries where both forms are applied, depending on the subject of the referendum, or, possibly, on certain procedural conditions.

64. Referendums on the status (merger or splitting) or boundaries of municipalities are frequently mandatory. In Italy, any proposal for a merger of existing regions or for the establishment of a new one needs to be approved by referendum. The other typical case in which a referendum is mandatory is when support for a local initiative in the local community reaches the threshold set by law, a threshold which exists in Luxembourg and “the former Yugoslav Republic of Macedonia”. There are also specific conditions in which local councils have to call a referendum. In some of Austria’s states, for example, a mandatory referendum has to be held if it is planned to amend the constitution of a *Land* to change either the territory of the *Land* or regional citizens’ rights.

65. Estonia, Finland, France, Greece, Lithuania, Malta, Norway, Portugal and Spain constitute the other group of countries, and here only optional local or regional referendums can be organised, which means that local (regional) assemblies always retain the power to decide whether or not to call a referendum.

Requirements for local/regional referendums to be valid

66. The next question relating to local referendums is how to interpret the result, i.e. how to determine what local citizens’ choice was. At first glance, it is not too difficult a question; the essence of participatory democracy is the principle that the majority prevails. But a mere majority is not enough. It may be presumed that the decision of a local or regional referendum can only be regarded as the expression of the will of local citizens if its result reflects the view of a considerable portion of the local population. Basically, a referendum result needs to be subjected to two different tests: the first relates to the validity, the second to the effects of the referendum. Validity is generally measured by the turnout rate. A referendum is only valid if a predetermined proportion of the local electorate participated in it. But, in some cases, even if the turnout exceeds the rate set by law the proposed decision is not taken, because the level of support was insufficient. In practice, these two requirements are intertwined in many countries, combining the two relevant conditions.

67. The necessary turnout varies from one-third to a majority of the total number of registered local voters. The majority rule usually applied is a simple majority of the valid votes cast. Where multiple-choice referendums are allowed, as they are in Luxembourg, the winning option is the one that received the most votes. It is a quite specific procedural rule in Cyprus that, in municipal referendums, a tied vote is considered to be a negative decision (refusal).

68. At first sight surprisingly, there are some countries – Estonia, Finland, Italy, Malta and Norway – where there are no rules about the necessary turnout or majority. But the explanation for this is that, in all these countries, local referendums are only consultative.. It can be assumed, nonetheless, that even in those countries the more people take part in a referendum, and the greater the majority for a particular option, the more political relevance the referendum will have in the decision-making of the local assembly.

The guarantees of legality of local referendums

69. The question of the legality of local/regional referendums can be approached from several different angles, and, inevitably, institutional safeguards may also vary. Since the referendum is an instrument of direct citizen participation, local voters are entitled to take part. Usually, any voters deprived of their participatory rights may – often through an electoral commission – appeal to the courts. But in some countries, judicial protection is not restricted to defending these rights. In Finland, for example, a council decision not to hold a referendum despite a local residents’ initiative may be challenged in an administrative court.

¹⁴ I suspect that some experts equated the optional nature of a local referendum with its non-binding nature. Consequently, the replies from Azerbaijan, Croatia, Serbia and Sweden do not contain relevant information on this aspect.

70. Moreover, the constitutionality of referendum questions may also be challenged by the different parties to the procedure – for example by the specialised bodies responsible for legal supervision of local authorities, or by any citizen. In Liechtenstein and Romania this supervision is exercised by the Constitutional Court *ex ante*. In Germany, where the *Länder* have exclusive power to regulate the forms and procedures of citizen participation, the constitutional courts of the *Länder* exercise legal supervision of local referendums. In some countries, such as Bulgaria and Germany, the administrative courts provide legal protection for citizen participation.

71. Thirdly, it is a common feature in the countries studied here that the whole procedure is supervised by the competent state authorities. In Finland, municipal referendums are overseen by the Chancellor of Justice and the Parliamentary Ombudsman, whereas in many countries this is the task of the regional agencies of central government, but usually the ordinary or administrative courts are the bodies that ultimately determine related legal disputes.

D. The effects of referendums – binding and non-binding referendums

72. The result of a referendum can be either binding or non-binding. A binding referendum produces a clear answer to the question asked, which binds the representative body. It means that the local or regional council, within the limits of the law, may not decide otherwise, and may only act in a way that complies with the decision made by the referendum. The law on local government in “the former Yugoslav Republic of Macedonia”, for example, prescribes that the municipal council is obliged, within 60 days of the day on which the result is announced, to regulate the issue that was the subject of the referendum in line with its results. An interesting rule in Russia is that the results of a referendum may only be changed by means of a new referendum.

73. A plebiscite is considered non-binding when it is of a purely consultative or advisory nature. This form of referendum leaves it to the competent representative body to take the final decision on the particular issue, which means that the result of the plebiscite is seen only as a recommendation.

74. In some countries, the decisions of local referendums – which are generally exceptional in nature – are binding on local authorities. This means that the local legislative assembly has to abide by the result of the referendum. Frequently, the council has to enact a local decree to implement it, as is the case in Azerbaijan, Croatia, Greece and Russia.

75. In other countries, referendums may be either binding or non-binding, depending on the specific subject or on certain circumstances. In Portugal, for example, the results of local referendums are binding if at least half of the electorate has voted, while in Italy only an abrogative referendum produces binding effects. France, Hungary, Romania, Serbia, Slovenia, “the former Yugoslav Republic of Macedonia” and Ukraine also belong to this category.

IV. Popular initiatives

A. Definition of a popular initiative

76. There are several different – sometimes contradictory – definitions of a popular initiative. Sometimes the term refers to a process or type of election that empowers ordinary people to vote on enacting or rejecting legislation. This enables the electorate to resolve questions that its elected representatives have failed to decide. However, according to the wording of the questionnaire, such possibilities are covered by the concept of the referendum, which may have the same effects. Sometimes, a popular initiative is understood to be the initiation of a referendum, which is discussed elsewhere in this document, namely as one stage of or requirement in the referendum procedure.

77. Thus, we are using the term “popular initiative” to refer to a procedure that enables citizens to propose legislation or require their representative body to discuss or vote on a particular issue. It contrasts with the referendum, in that citizens do not decide for themselves, but force the relevant representative body to make a decision on a public issue.

B. The availability of the popular initiative as an instrument in member states

78. In this sense, popular initiatives are a feature of some *Länder* in Austria, and of Azerbaijan, Bulgaria, Croatia, Estonia, Finland, Germany, Hungary, Italy, Norway, Portugal, Romania, Russia, Serbia, Slovakia, Slovenia, Spain, Sweden, “the former Yugoslav Republic of Macedonia” and Turkey. Where this instrument exists, it is regulated by the law on local government or on forms of direct democracy. The Netherlands is an exception because, although the institution is not recognised in national legislation, some municipalities and provinces have adopted local or provincial regulations laying down procedures for popular initiatives. They can do so because the law gives them this power. Similarly in Latvia, although the popular initiative is not mentioned in any legal act, it is not considered to be prohibited, and there are some examples of it having been used by local citizens. In such cases, however, this channel for citizens to exercise their influence on local public policy is neither established nor guaranteed.

79. In federal and regional states, again, regional governments may regulate the conditions, procedures and effects of popular initiatives. Thus Austria has 9, Germany 16, and Spain 17 different regulatory systems.

80. Like referendums, popular initiatives can be implemented at various levels of government in some countries. In Spain, for example, this instrument can also be used at regional level. In such cases a proposal is usually submitted to the regional legislative chamber, and for this reason this form of direct democracy is called “legislative popular initiative” (*Iniciativa Legislativa Popular*). Popular initiatives are also a viable institution at regional level in Italy and in Serbia.

81. Popular initiatives are generally intended to lead to new local government bye-laws on issues of local importance. This form could therefore be referred to as a legislative popular initiative. But in some member states, this kind of citizen participation may be employed to bring wider issues of local public concern to the representative body's attention for discussion. In Estonia, for example, popular initiatives are authorised in connection with all local government responsibilities, or on questions of local importance, as in Bulgaria and in Germany (but in the latter, in some *Länder*, there is a list of prohibited areas, mainly financial issues). Whereas in the case of referendums, it may be justified to specify certain restricted subjects, the use of popular initiatives does not raise such concerns, because it still leaves the representative assembly to discuss the public matter and reach a final decision. This procedure is therefore an appropriate way of demonstrating public feelings on a particular issue, or of drawing the attention of local politicians to a vitally important topic.

C. Procedural requirements

82. Logically, popular initiatives should be subject to less strict preconditions than local referendums, because they do not override local councils' powers. This can be demonstrated by citing the relevant Hungarian regulation, which sets less stringent conditions for local popular initiatives: while local referendums must be supported by between 10 and 25% of local voters to be mandatory, the requisite proportion of voter support is between 5 and 10% to achieve the aim of a popular initiative, namely to oblige the local council to discuss the proposed issue. In Estonia, at least 1% of local voters (but no fewer than five people) have the right to initiate the adoption, amendment or repeal of municipal legislation. Nevertheless, in certain cases local popular initiatives are subject to stricter conditions. In Spain, the relevant national legislation requires such initiatives to be backed by a minimum number of resident citizens: 20% of local voters if the local authority has fewer than 5,000 residents, 15% if the population is between 5,001 and 20,000, and 10% if the municipality has more than 20,000 residents. 20% is also the requisite number of local voters in Portugal to propose a popular initiative in municipalities with at least 3,750 residents.

83. There are other cases as well where the procedural rules relating to popular initiatives resemble those relating to local referendums. In Russia, for example, the whole process has to be initiated by an initiative group, and in Germany, the initiative has to contain a specific proposal and indicate which citizens are responsible for the initiative, and what their motivation is.

D. Effects of popular initiatives

84. When all the requirements are met, the effect of a popular initiative is that the representative body must discuss the subject at the next council meeting, or by a specified deadline. To give further weight to citizens' voice, some countries make it mandatory for the council concerned to vote on the proposal submitted by the popular initiative. Otherwise, the local representatives could set it aside without giving it proper attention.

85. The importance of popular initiatives is strengthened in some countries, such as Ukraine, by a requirement for the local council concerned to discuss the issue at a public or open meeting at which representatives of the initiative group are present.

V. Popular assemblies, citizens' meetings and public hearings

A. Local public decision-making by the whole community of local citizens

86. In theory, the popular assembly is the strongest form of direct democracy. It can provide an opportunity for the whole local community, as in the ancient city-states, to discuss and decide on local public matters. Nevertheless, representative democracy is accepted throughout Europe nowadays, even in the smallest municipalities.

87. The popular assembly may be attended by the local electorate, i.e. all local voters, to discuss or decide on issues of local importance. Only in specific circumstances, particularly when the local community is so small that public meetings of local voters are a suitable basis for decision-making, can it be the primary body dealing with matters of public interest. In fact they are a very rare and exceptional institution in the member states, and only in a few countries and in certain municipalities is the popular assembly the main form of local government. In Portugal, for example, in parishes with fewer than 150 voters, the popular assembly itself is the deliberative body. Similarly, in Russia, according to a federal law, popular assemblies are to be organised in municipalities with a population of not more than 100 residents eligible to vote. This body then fulfils the functions of a representative body for those small municipalities. However, such "classic" forms of direct democracy are fairly rare in contemporary Europe.

B. Inviting citizens to deliberate on local public matters directly: citizens' meetings and public hearings

88. Citizens' meetings and public hearings are far more widespread than popular assemblies. These instruments of direct contact between the local authority and the local population provide a forum for local citizens to express their views, wishes or proposals without any binding effect on their representative bodies. This form of citizen participation in general – although frequently with different names in the member states and subject to widely varying arrangements – is recognised in some Austrian *Länder* and in Croatia, Estonia, Greece, Hungary, Malta, Romania, Serbia, Slovenia, Spain, "the former Yugoslav Republic of Macedonia", Turkey and Ukraine.

89. Citizens' meetings and public hearings, if they are organised at all, mainly play a purely consultative role and have an advisory character in local policy-making, rather than a decisive impact on local self-government. These collective meetings of local citizens provide an excellent and valuable occasion for municipal authorities to get to know the various preferences and opinions of the local population, as well as the levels of support for the different views. Thus public hearings can provide important input for the general or regular public policy-making machinery.

90. In certain countries, such meetings or hearings must be convened regularly – once a year, for instance – and in certain cases their proposals or other conclusions have to be submitted to the representative body.

91. Furthermore, in many other countries, although this instrument is not explicitly recognised by any legal statute, it is not prohibited either. This means that the competent local or regional government may initiate such meetings, with any public matters within its own responsibility on the agenda. Presumably, these informal meetings can have just as important an effect on local policy-making as those which are formalised. In the UK, there are some councils with formal or less formal constitutions,

such as parish councils in England and community councils in Scotland and Wales. Although these are not popular assemblies as defined in this report, they do sometimes perform a similar role in their own areas.

92. As to possible subjects, a large number of local public matters can be discussed in this way. The only restriction is that the subject must fall within the competence of the local authority concerned, so there is a distinction between citizen participation and other citizens' movements (e.g. political demonstrations on any issue). According to the relevant Estonian law, municipalities have to inform their residents about matters under consideration, plans concerning them, the treatment of issues, decisions taken and their effects. Self-evidently, if direct consultation is initiated and conducted by a municipal authority, it is free to determine the topics of these direct activities.

93. It is not unusual, nevertheless, for a special law to specify the subject(s) of a citizens' meeting. In France, for example, a law prescribes that a public inquiry has to be held prior to, among other things:

- expropriation measures;
- developments, construction and works executed by public or private entities; and
- decisions relating to urban planning measures.

94. Similarly, it is in certain cases compulsory for a municipal authority to hold public hearings on such matters as draft municipal charters, draft budgets, draft development projects and programmes, reorganisation of the municipality (as in Russia), or planning or investment processes (as in Latvia and Lithuania).

95. It is interesting to observe that in some cases the rules relating to citizens' meetings and public hearings resemble the regulations on other forms of citizen participation. In "the former Yugoslav Republic of Macedonia", for example, the mayor has to convene such a meeting if so requested by at least 10% of the voters of the municipality, and there are often rules requiring the representative body to "follow up" the proposals of citizens' meetings.

96. In a number of countries, the representative body may, or is bound to, hold regular – once a year, for example, as in Hungary – public hearings or similar events to inform the local population about and/or seek their opinion on local public affairs. These occasions are more commonly initiated by local councils – especially when they are bound to do so – but in some countries local citizens may also propose such events.

C. Consulting stakeholders or specific interest groups: citizens' panels and other channels of citizen involvement

97. When describing the instruments whereby local citizens can be consulted directly, a number of experts reported on special forms of citizen participation which can be distinguished from popular assemblies and public hearings as understood here. The common feature of these procedures is that they are used for directly consulting only a certain part of the local population on a specific issue. It is therefore not the entire local community that is consulted in this way, but only those people who are especially interested in the local public issue under discussion.

98. In Ireland and the United Kingdom, although no general legal framework exists in the area examined in this chapter, consultative mechanisms are maintained in some subject-specific fields when this is required by specific legislation. Land use planning and public transport are particular examples of such subjects. The approach is also used in many other countries, often based on law. When the practice is based on specific legislation, more sophisticated procedural rules exist to determine the range of issues to be discussed in this way, and delimiting or defining the stakeholders or interested parties in the various subjects.

99. In Italy, local citizens may set up what is known as a "citizens' monitoring board" (*Comitati di monitoraggio cittadino*) in order to supervise their municipality's "strategic plan". Similarly, in Cyprus, under the Town and Planning Law, public hearings are held in the course of the administrative procedure for obtaining planning permission. In Lithuania and some other countries, public hearings are regularly organised to consult the local population on specific issues, particularly in environmental protection cases or in relation to municipalities' development plans.

100. Citizens' panels are another instrument using a special technique involving the selection of a representative group of local people, in order to consult them on public policy issues. This institution can also be used for testing proposals or plans before their introduction. In theory this form of citizen participation could be a both democratic and useful instrument in local decision-making procedures. However, in certain cases at least (such as law-making, where the draft regulation would affect a significant part of the population or would result in major changes in local relations), the national experts did not report extensive use of this method, or to be more precise, no example was mentioned in the sense in which the questionnaire had defined it.

VI. Other instruments and "alternative" forms of direct citizen participation

101. Given the great diversity of instruments and procedures used by the member states of the Council of Europe, it seemed advisable to group together all the unusual or "alternative" forms of citizen participation that cannot be classified according to the concepts in the chapters above but which give local residents the opportunity to formulate and express their views and their will in relation to local public matters.

102. In doing so, we can ignore the different terminology used in the various countries when the same or very similar mechanisms or institutions are described under different names. For example, "public debates" or "citizens' meetings" have been included as "popular assemblies" or "public hearings/citizens' meetings" when their functions, procedures and effects are more or less the same or they can be identified with each other. But beside the more widely accepted instruments of citizen participation described above, there are certain other forms and tools of direct democracy for conveying the views and opinions of the local population.

103. One which is found in various countries is the possibility of establishing what are termed "neighbourhood councils", mainly in smaller municipalities. In the Netherlands these councils are private organisations of residents of a village or an urban neighbourhood which try to improve all kinds of aspects of living conditions in their villages or neighbourhoods. They also serve as discussion partners for the municipal council.

104. Certain citizens' demands can be settled by involving the interested persons and groups in the organisation of local public services. Frequently, the stakeholders are involved in these matters as consumers of the relevant services, controlling their quality level, or even participating in their management processes. Local citizens can be members of school boards, consumer councils or other bodies that grant certain participatory rights. These forms are more widespread in the sphere of what are known as communal public services and public utilities.

105. There is also an increasing interest in 'participatory budgeting' in Europe which directly involves local people in making decisions on the spending and priorities for a defined public budget. When it works well it can improve transparency in public spending and even boost revenues. It is widely considered to be a tool for making cities more inclusive and mobilising passive citizens. There is no single model, as the practice represents a range of initiatives with their own characteristics. France, Germany, Spain and the United Kingdom all have cities and regions which have used this tool.

106. Another form of citizen participation, with variants in several countries, is the right to petition. In its main form, this is also a way of expressing collective wishes, proposals or protests. Usually, this kind of participation is regulated by law, with local and regional authorities being required to deal with and respond to such petitions.

107. In some countries, such as Finland and Hungary, the relevant local government legislation authorises the establishment of administrative or quasi-administrative units or councils within the boundaries of the relevant municipality. These units carry out certain tasks and functions that are delegated to them by the local council. This can be a good method of enhancing citizen participation in larger cities, where local residents feel remote from the local assembly.

108. Apart from these direct links, local authorities use many other tools to keep contact with local citizens, gather their proposals and complaints and receive feedback from them. Such instruments can include consultation hours, or "surgeries", when citizens can meet councillors, "open days" in the town hall, complaints boxes in public offices or local/regional newsletters. Although these may be less appropriate ways of involving local citizens in the decision-making process, they can help to provide

the necessary conditions for active participation in local public life. Their primary function is rather to provide information for local citizens about local policy issues and other matters of public interest. For the latter, other tools are also available and used, like the official websites of municipalities, local TV stations, leaflets and newsletters.

109. The Council of Europe initiated the European Local Democracy Week¹⁵ in 2007. The Congress coordinates the European dimension of this annual European event with simultaneous national and local events organised by participating local and regional authorities in all Council of Europe member States. Its aim is to raise European citizens' awareness of how local and regional authorities operate, to inform them of the opportunities available for taking part in decision-making at local level and, as a result, draw their attention to how crucial their participation in local affairs is for maintaining the vitality of local democracy. The initiative will also serve as an occasion for raising local councillors' and local civil servants' awareness of democratic participation at local level and will enable them to meet citizens in an informal and entertaining setting.

110. The rapid development of the new information and communication technologies is increasingly having an impact on citizen participation in local public affairs. All these developments, such as social networking sites, twitter etc. All these developments are opening up new channels for exchanging information, opinions and proposals. At the moment, however, these trends are only having a moderate effect on the regular local decision-making process.

111. In practice, the new information and communication technologies are used to enhance local and regional authorities' capacity to carry out their traditional or regular tasks and services, rather than for strengthening the participation of local citizens in the decision-making process. A recent development in some member states is 'open data', where the national government puts public data online.¹⁶ This data can then be filtered through applications such as 'openlylocal.com and 'spotlight on spend' which bring a new level of transparency and accountability to local democracy. Applications such as these which give citizens greater access to local information than ever before, have great potential for motivating people to take a greater interest in local affairs, and therefore could be an important key for increasing citizen participation.

112. Most municipalities maintain their own web page not only to provide and disseminate practical information to local residents, but also to assist them in day-to-day administrative matters. Undoubtedly the Internet makes communication and other processes (e.g. complaints systems) much easier, but these mechanisms are usually less standardised or are built into local and regional authorities' traditional decision- or law-making procedures.

113. Generally speaking, more and better-developed "smart communities" are emerging in the larger cities and their influence on city politics is increasing, though fears remain about a widening gap between technologically rich and technologically poor, especially in rural areas where the use of these potential local democracy tools is less widespread.

VII. Frequency and effectiveness of participation in local/regional decision-making

114. Certainly, the availability of forms of citizen participation in itself is not enough to inspire vigorous local public life, so it is important to know how frequently these instruments are used in Council of Europe member states, and which tools and procedures are applied most often.

115. In general, most national experts reported a low level of citizen activity based on the procedures under examination. There seems to be general agreement that representative democracy is the primary and predominant form of democracy at local level. The use of any form of citizen participation is very much the exception. In extreme cases, these instruments have not been used at all. Thus in Armenia, although a special law introduced local referendums in 2002, none has been organised so far. In France, the right to petition was introduced very recently, but has hardly been applied yet. As the Portuguese expert noted, despite all the forms of citizen participation provided for by law, it can generally be said that citizen activity is still at a low level.

¹⁵ http://www.coe.int/t/congress/demoweek/default_en.asp

¹⁶ Such as in the United Kingdom <http://data.gov.uk/>

116. It is difficult to determine an optimum frequency for use of these procedures, because this depends on national traditions, cultures, legal circumstances and political climate in the various member states. It is clear that in certain countries, such as France, Ireland and the United Kingdom, the procedures of direct democracy are not so well accepted in local decision-making, while in some central and east European countries the weakness of civil society contributes to the low level of use of such procedures. Some experts referred to a lack of relevant information or statistical data, partly because their countries' local and regional authorities have a high level of autonomy to determine even the forms and major procedural rules of the instruments of citizen participation. In those cases where statistical data are available, the number of local referendums and other forms of citizen participation varies widely. While only a few referendums have been organised in recent decades in some countries, there were more than 4,000 initiatives and referendums in Germany between 1975 and 2007 (it is a striking fact that almost half of all the local referendums – 968 – were held in Bavaria alone).

117. The intensity or frequency of use of the various forms of direct democracy differs at local and regional levels. In Austria and Russia, for example, citizen participation in general terms is stronger at local level than in the *Länder* or the regions, while Croatia's experience is that activity by the local population is stronger in cities than in rural areas, and, moreover, greater inland than on the coast.

118. It can be said with certainty that in those countries where local referendums have to be held in the event of plans to change municipal status or boundaries, the plebiscite – be it binding or non-binding – is the most frequently used form of citizen participation. This is true in particular during the years when structural changes are taking place in a country. Obviously there is a correlation between the number of municipalities and the frequency of referendums (or any other form of direct participation). In Finland, for example, the average number of municipal referendums in the country each year is between one and three, compared to dozens in Hungary, where there are more than 3,000 municipalities.

119. The experts from Cyprus, Hungary, Greece, Latvia, Serbia, Slovenia and Ukraine reported that public hearings are the most popular instruments of citizen participation in their country. This is unsurprising in those countries where such meetings are required by law to be held on a regular basis. Other countries reported that alternative or less formalised methods are more popular and widespread, such as public hearings or those channels and instruments which provide opportunities for specialised groups of stakeholders or consumers of public services to influence decision-making.

120. As to the role and importance of the instruments of citizen participation in the local policy-making process, most experts were reluctant to make an overall assessment of the situation in their respective countries. This is not an easy task, because we do not have reasonable standards on which to base our assessment. It is clear that mandatory and binding referendums have the greatest impact on local policy-making because of their legal character. However, these forms are used extremely rarely at the local and regional level in the member states and other types of citizen participation can also have a strong impact though involving local voters in the decision-making process at an earlier stage. These forms of participation are preferred in member states and applied more frequently.

121. Some experts – especially from central European countries – reported that the activity and influence of civil society via the instruments of citizen participation have increased in the past few years. Initiatives to increase citizen participation should be accompanied by operational research to judge its effectiveness. The Council of Europe created the CLEAR¹⁷ model as a diagnostic tool for self-assessment by local and regional authorities.

122. In some cases the use of direct citizen participation is initiated or encouraged by well-organised political groups or movements, possibly for their own ends, which means that referendums or popular initiatives are merely an extension of institutionalised politics using other tools and instruments. Sometimes the destiny of a popular initiative very much depends on the support of the ruling parties, as the Spanish expert pointed out. Even such cases can promote the spread of these forms of citizen participation and contribute to their becoming vital components of local politics and public life.

¹⁷ Recommendation (2009)2 of the Committee of Ministers to member states on the evaluation, auditing and monitoring of participation and participation policies at local and regional level.

123. Certainly, it is also very difficult to ascertain the possible motivations for citizens' initiatives to use the instruments of participatory democracy. A lot of national experts assumed that such kinds of popular action express protest against a particular policy measure or against local politics more generally. Presumably it is easier to mobilise the local population against a particular local project or a policy decision than in favour of a new policy. The instruments of citizen participation are most often employed to protect the local environment, natural resources or the cultural heritage from a planned investment or development project. Nevertheless, when the application of certain forms of citizen participation is compulsory, as in a planning process or on the question of municipality boundaries, these procedures are used as part of a positive decision-making process.

124. In many cases, participants in direct citizens' action are motivated by special interests, and they are supported by the stakeholders in a specific public service or local government policy.

VIII. Conclusions

125. Having regard to the great differences in the way in which forms of citizen participation are used in different member states, the same objectives and goals – i.e. the development of citizens' involvement in local democracy and the provision of effective tools for them – can be achieved by various instruments and methods. In those countries where traditional procedures of citizen participation are used only exceptionally, these forms of direct democracy should be promoted by local and regional authorities themselves. If the relevant rules exist but are not used or implemented in practice, they will become just empty frameworks, and public trust in democratic institutions will be diminished.

126. For this reason, the Congress of Local and Regional Authorities, taking advantage of its specialised capacity and its potential for promoting common European values and for providing opportunities for exchanges of national experience among its member states, should take on the crucial role of disseminating good practices and encouraging the application of new institutions of citizen participation among its member states.

127. Alongside the traditional forms of citizen participation, some new institutions might be effective and useful tools for strengthening local democracy. One method would be to use the opportunities offered by information technology to widen citizens' involvement in the local decision-making process. Internet-based solutions in particular seem to be appropriate tools for ascertaining the opinions and preferences of local citizens in relation to local public matters. Nevertheless, it has to be borne in mind that these opportunities cannot really promote representation of the interests of some groups, such as elderly people or those who live in undeveloped rural areas.

128. The use of other "alternative" instruments, like sample voting, citizens' panels and some other tools, is surely no substitute for those forms of citizen participation which provide institutionalised procedures for the local population to exert direct influence on local policy-making, although it could offer effective and cheap levers for drawing citizens' attention to the most important local public issues and problems, and for informing them about possible policy alternatives.

129. The establishment and careful regulation of forms of citizen participation are necessary, but these are insufficient to get people actively involved in local public matters. The more developed civil society is in a country, the more effective citizen participation can be.

130. Experience in certain countries has shown that the legal environment regulating citizen participation does not make such participation any easier. The rigid and over-complex conditions imposed on citizens' initiatives may deter even the most active people. It is often the case that the respective local and regional authorities should accept a new approach with regard to participatory democracy; local representatives should regard this as a good and effective opportunity to sound out the predominant views and preferences of the local population, instead of considering it to be a dangerous enterprise leading to undesired results.

131. The absence of relevant citizens' initiatives and direct action, or their low level of application, may be a sign not only of inactivity among the local population or their indifference to local public matters, but also of the inappropriateness or rigidity of the relevant procedural rules. But mere simplification of the procedural rules will not suffice to enhance the level of citizen participation; the forms and instruments of local participatory democracy should be propagated, encouraged and even promoted by positive action by local and regional authorities.

132. Since the improvement of local democracy and direct citizen participation is likely to be a key issue in the future activity of the Council of Europe, the Congress should follow the progress made by the member States.